

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Genevieve Lamont	Team: Squad #8	CCRB Case #: 201903391	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 04/20/2019 1:20 PM	Location of Incident: Inside the 5th PCT stationhouse, outside § 87(2)(b)	Precinct: 05	18 Mo. SOL 10/20/2020	EO SOL 6/6/2021	
Date/Time CV Reported Sat, 04/20/2019 2:26 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sat, 04/20/2019 2:26 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Kit Yung	05493	942737	005 PCT
2. LT Louis Barbarelli	00000	932298	005 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Edwin Gonzalez	13640	952794	005 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Kit Yung	Abuse: Outside § 87(2)(b) in Manhattan, Sergeant Kit Yung threatened to arrest § 87(2)(b)	§ 87(2)(b)
B.LT Louis Barbarelli	Discourtesy: Inside the 5th Precinct stationhouse in Manhattan, Lieutenant Louis Barbarelli spoke discourteously to § 87(2)(b)	§ 87(2)(b)
C.LT Louis Barbarelli	Abuse: Inside the 5th Precinct stationhouse in Manhattan, Lieutenant Louis Barbarelli did not process § 87(2)(b)'s complaint regarding an officer.	§ 87(2)(b)
D.SGT Kit Yung	Abuse: Inside the 5th Precinct stationhouse in Manhattan, Sergeant Kit Yung threatened to arrest § 87(2)(b)	§ 87(2)(b)

Case Summary

On April 20, 2019, § 87(2)(b) filed the following complaint with the CCRB by phone.

On April 20, 2019, at approximately 1:20 p.m., § 87(2)(b) was fired from his place of employment, the § 87(2)(b) in Manhattan. As § 87(2)(b) went to retrieve his belongings, he and an ex-coworker engaged in a verbal altercation, in which he was called a faggot. § 87(2)(b) was then asked to leave the store, which he did, and called 911. Sgt. Kit Yung of the 5th Precinct responded to the scene. After speaking with the employees, Sgt. Yung informed § 87(2)(b) that he had to leave the premises or else he would be arrested (**Allegation A: Abuse of Authority**; § 87(2)(g)).

§ 87(2)(b) then went to the 5th Precinct stationhouse in Manhattan to file a harassment report regarding his ex-coworker calling him a faggot. Upon arriving at the stationhouse, he spoke with Sgt. Yung and Lt. Louis Barbarelli of the 5th Precinct. § 87(2)(b) recorded this interaction on his cellphone, in which Lt. Barbarelli is heard telling § 87(2)(b) not to bring up “that shit” when referring to § 87(2)(b)’s sexuality (**Allegation B: Discourtesy**; § 87(2)(g) [BR01]). Later in the conversation, § 87(2)(b) informed Lt. Barbarelli that he wanted to file a complaint against Sgt. Yung, which Lt. Barbarelli allegedly ignored (**Allegation C: Abuse of Authority**; § 87(2)(g)). As § 87(2)(b) was leaving the stationhouse, Sgt. Yung stated that if he returned, he would arrest him (**Allegation D: Abuse of Authority**; § 87(2)(g)).

In addition to § 87(2)(b)’s cellphone footage, stationhouse footage from the 5th Precinct stationhouse was also obtained [BR02]. Body-worn camera footage from PO Karen Kader-Jimenez of the 5th Precinct that was taken at § 87(2)(b) was provided to the investigation as well [BR03].

Findings and Recommendations

Allegation (A) Abuse of Authority: Outside § 87(2)(b) in Manhattan, Sergeant Kit Yung threatened to arrest § 87(2)(b)

It is undisputed that Sgt. Yung threatened to arrest § 87(2)(b) after he had been fired. § 87(2)(b) testified that he asked Sgt. Yung if he was going to take a harassment report for the incident after he returned from inside the store [BR04]. Sgt. Yung informed him that they were not, and that if § 87(2)(b) attempted to go back into store, he would arrest him, as he was no longer allowed inside. He and § 87(2)(b) had a back and forth conversation, where Sgt. Yung told § 87(2)(b) that if he did not leave the area, he would be arrested.

Sgt. Yung testified that upon arriving on scene, he observed § 87(2)(b) yelling, screaming, and using obscene language [BR05]. He informed § 87(2)(b) that he was impeding pedestrian traffic, as he was causing a scene on a busy sidewalk. He then spoke with the workers inside the store, who informed him that § 87(2)(b) had been fired and had refused to leave. He informed § 87(2)(b) that he had to leave the location, which § 87(2)(b) refused to do, stating that he was unionized and could not be fired. Sgt. Yung told § 87(2)(b) that if he did not leave the location, then he would have to arrest him. Sgt. Yung stated that § 87(2)(b) could have been arrested for disorderly conduct, as he was inconveniencing the pedestrians on the sidewalk. A 911 call from an employee, only known to the investigation as § 87(2)(b) Williams, confirmed that § 87(2)(b) was reported as refusing to leave and that he made threats to other employees [BR06].

As per NY CLS Penal §140.05, a person is guilty of trespass when he knowingly enters or remains unlawfully in or upon premises [BR07].

§ 87(2)(g)

Allegation (B) Discourtesy: Inside the 5th Precinct stationhouse in Manhattan, Lieutenant Louis Barbarelli spoke discourteously to § 87(2)(b)

Allegation (C) Abuse of Authority: Inside the 5th Precinct stationhouse in Manhattan, Lieutenant Louis Barbarelli did not process § 87(2)(b)'s complaint regarding an officer.

While it is undisputed that Lt. Barbarelli used discourteous language towards § 87(2)(b) during their conversation, it remains disputed if he refused to process § 87(2)(b)'s complaint against Sgt. Yung.

§ 87(2)(b) testified that upon arriving at the 5th Precinct stationhouse, he spoke with PO Edwin § 87(2)(b) of the 5th Precinct, who began to prepare his harassment report [BR04]. Sgt. Yung then arrived at the stationhouse, and the two engaged in a conversation in which § 87(2)(b) asked for a harassment report to be filed for being called a faggot, which Sgt. Yung refused to do. Lt. Barbarelli then asked § 87(2)(b) why he was so offended by the word faggot, and that he “knew more gay people” than him, and none were offended by the word. In the cellphone recording of the conversation, Lt. Barbarelli is heard at 00:25 minutes saying, “Don’t give me that shit, this isn’t the 80s” in response to § 87(2)(b) telling him that he does not know his struggles as a gay man [BR01]. Later in their conversation, § 87(2)(b) informed Lt. Barbarelli that he wanted to file a complaint against Sgt. Yung. Lt. Barbarelli ignored this request.

Lt. Barbarelli initially stated that he did not use any discourteous language towards § 87(2)(b) and that he interjected between Sgt. Yung and § 87(2)(b)'s conversation to calm § 87(2)(b) down [BR08]. He was shown § 87(2)(b)'s cellphone recording, and stated that he used the statement “that shit” in reference to the negative comments said about § 87(2)(b) and that it was not intended to be disrespectful. He stated that, after the recording ended, he and § 87(2)(b) had a “wonderful conversation”, in which they spoke about how he should not be concerned with being called a faggot. He did not recall § 87(2)(b) requesting to file a complaint against Sgt. Yung. Neither Sgt. Yung nor PO § 87(2)(b) heard § 87(2)(b) tell Lt. Barbarelli that he wanted to file a complaint against Sgt. Yung [BR 05 and BR09, respectively].

Patrol Guide Procedure 203-09 states the members of service must interact with members of the public in a professional and courteous manner [BR10].

§ 87(2)(g)

§ 87(2)(g)

Allegation (D) Abuse of Authority: Inside the 5th Precinct stationhouse in Manhattan, Sergeant Kit Yung threatened to arrest § 87(2)(b)

While it is undisputed that Sgt. Yung threatened to arrest § 87(2)(b) while he was inside the stationhouse, it remains in dispute as to when he made this statement and for what reason § 87(2)(b) could have been arrested.

§ 87(2)(b) testified that after initially leaving the stationhouse, he came back inside and asked for Sgt. Yung's badge number, who screamed it in response [BR04]. Sgt. Yung then told § 87(2)(b) that if he came back inside the stationhouse, he would arrest him. Sgt. Yung testified that he told § 87(2)(b) he could be arrested for recording inside the stationhouse, as § 87(2)(b) was recording the interaction on his cellphone [BR05]. § 87(2)(b) responded that he would stop recording, which Sgt. Yung stated was sufficient to not proceed with police action. He did not threaten to arrest § 87(2)(b) at any other point while he was inside the stationhouse. Neither Lt. Barbarelli nor PO § 87(2)(b) recalled hearing Sgt. Yung threaten to arrest § 87(2)(b) [BR08 and BR09, respectively].

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has been party to one prior CCRB case [BR11].
- Sgt. Yung has been a member of service for 13 years, and has been a subject in four CCRB complaints and seven allegations, none of which were substantiated. § 87(2)(g)
- Lt. Barbarelli has been a member of service for 16 years, and has been a subject in three prior CCRB complaints and three allegations, none of which were substantiated. Lt. Barbarelli has one prior discourtesy allegation against him, which was closed as complainant unavailable.

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.

- On July 23, 2019, a FOIL request was sent to the New York City Office of the Comptroller to determine if a Notice of Claim was filed regarding this complaint. Confirmation from the office will be forwarded upon receipt
- ‘; [BR12].
- § 87(2)(c), § 87(2)(b)

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date